HONOURABLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HONOURABLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.1092 OF 2006

Between:

Sri Chenna Kesava Swamy Vari Temple, Yadlapadu, represented by its Managing Trustee, Kakumanu Subba Rao (Died). presently Kakumanu Kesava Rao and seven others.

…Appellants

And:

1. Peddi Venkata Subbama (died)
2. Peddi Butchaiah and
seven others.

…Respondents

:: J U D G M E N T ::

Counsel for the Appellants : Shri Raja Reddy Koneti

Counsel for Respondent Nos.2 to 9 : Shri G.Rama Rao

Dated: 1st November 2006

Per G.S.SINGHVI, CJ

This is an appeal for setting aside order dated 23.12.2005 passed by the learned Single Judge in Writ Petition No.27253 of 2005 whereby he declared the proceedings in A.T.C.No.9 of 1995 and A.T.A.No.19 of 1998 as nullity and directed that the orders passed in those proceedings shall not be enforceable by the parties.

We have heard learned counsel for the parties and perused the record.

One of the grounds on which the appellants have questioned the order of the learned Single Judge is that they were not given notice and opportunity of hearing. According to them, the learned Single Judge disposed of the writ petition at the threshold without issuing notice.

Shri G.Rama Rao, learned counsel for the

respondents candidly stated that the learned Single Judge disposed of the writ petition filed by his clients without issuing notice to the opposite side.

In view of the statement made by the learned counsel for the respondents that the proceedings impugned in the writ petition were set aside by the learned Single Judge without issuing notice to the non-petitioners (appellants herein), there is no escape from the conclusion that the order under challenge is vitiated due to violation of the basic rule of natural justice i.e. audi alterim partem, and, as such, the same is liable to be set aside.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside and Writ Petition No.27253 of 2005 is remanded for fresh adjudication.

As a sequel to disposal of the main appeal, W.A.M.P.No.2304 of 2006 filed by the appellants for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA

REDDY, J

01.11.2006
dr